

PLANNING AND ECONOMIC DEVELOPMENT COMMITTEE

12-0307R

RESOLUTION APPROVING A LEASE AGREEMENT BETWEEN THE
DULUTH ECONOMIC DEVELOPMENT AUTHORITY AND AAR AIRCRAFT
SERVICES, INC.

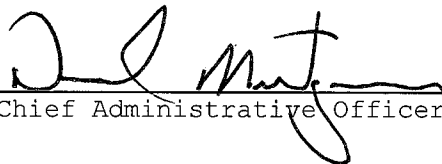
CITY PROPOSAL:

RESOLVED, that the city council of the city of Duluth does hereby approve
the lease agreement on file in the office of the city clerk as Public Document
No. _____, between the Duluth economic development authority (DEDA) and
AAR Aircraft Services, Inc. (AAR).

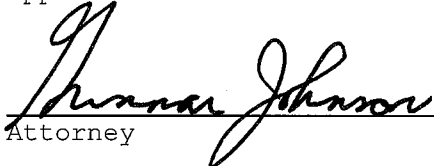
Approved:


Department Director

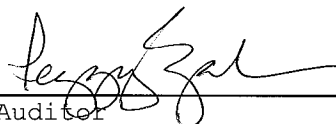
Approved for presentation to council:


Chief Administrative Officer

Approved as to form:


Attorney

Approved:


Auditor

DEDA/ATTY REA:bel/tmn 06/14/2012

STATEMENT OF PURPOSE: The purpose of this resolution is to obtain the City Council's approval of a lease agreement between DEDA and AAR Aircraft Services, Inc. (AAR) as is required pursuant to the business subsidy law, Minnesota Statute Section 116J.994 Subd. 3(d) and Paragraph 19 of the amended DEDA Enabling Legislation, Resolution 09-0324. DEDA approved the Agreement at its June 12, 2012, meeting.

The agreement leases AAR the majority of the old NWA MRO facility at the Duluth International Airport for the purpose of allowing them to operate commercial aircraft maintenance and repair facility on the airport.

DEDA will lease them the ground level of the building (approximately 153,000 square feet out of a total of 189,000 square feet in the building) for a period of seven years with five additional 5-year options which will hopefully carry them through 2044. During the first three month start-up period, they will pay no rent. During the next two years they will pay an assisted rent level of \$0.60 per square foot with a COLA escalator. Thereafter they will pay \$2.60 per square foot, again with an annual COLA escalation. In addition, from day one, they will

cover all of the costs of operating the building and will spend up to \$110,000 per year on maintenance of the facility.

As part of the financing necessary to the project, it will be receiving support in the form of JOBZ benefits and, at the end of the JOBZ program, tax abatement. Therefore, the tax impact to the City of this project will be de minimus for the immediate future.

It is anticipated that by the end of the first year of operations in the building AAR will have 100 new jobs on the property and that by the end of the third year that number will have risen to 192 new jobs.

LEASE AGREEMENT

DULUTH ECONOMIC DEVELOPMENT AUTHORITY

NWA MRO FACILITY

AAR AIRCRAFT SERVICES, INC.

THIS LEASE AGREEMENT, entered on the ____ day of _____, 2012, by and between the DULUTH ECONOMIC DEVELOPMENT AUTHORITY, an economic development authority under Minnesota Statutes (1989) Chapter 469, hereinafter referred to as "DEDA", and AAR AIRCRAFT SERVICES, INC., a corporation created and existing under the laws of the State of Illinois, hereinafter referred to as "Lessee".

WHEREAS, DEDA is the owner of a heavy aircraft maintenance facility located on the hereinafter-described "Property" at the Duluth International Airport ("DIAP") originally constructed for the use of Northwest Airlines to perform maintenance on Airbus A 320 aircraft which facility NWA no longer uses or intends to use; and

WHEREAS, said facility consists of 189,000 square feet of hangar space, office space, shop space and support space; and

WHEREAS, Lessee is in need of a building and space at DIAP suitable for the operation of a maintenance, repair and overhaul facility for commercial aircraft; and

WHEREAS, the design and location of the Building is suitable for Lessee's purposes; and

WHEREAS, both DEDA and Lessee believe that it will be in the best interests of DEDA, of Lessee and of the Duluth Airport Authority as operator of the DIAP and of the DIAP itself as well as the rest of the community for DEDA to lease some or all of the Building and the Property to Lessee for the purposes set forth above, subject to the terms and conditions hereinafter set forth.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants and agreements hereinafter contained, the parties covenant and agree for themselves and their successors and assigns as follows:

ARTICLE I
DEFINITIONS

For the purposes of this Lease Agreement, the following terms shall have the meanings hereinafter ascribed to them unless a different meaning clearly appears from the context;

- A. Additional Space: shall mean those portions of the Main Building not leased to Lessee as of the effective date of this Lease Agreement consisting of 36,700 square fee, more or less; provided that upon the exercise of Lessee's option to lease all or any portion of the Additional Space, such Additional Space shall be deemed to be part of the Leased Premises for the purposes of this Lease Agreement unless and until Lessee terminates its lease of all or any portion thereof, at which time it shall no longer be deemed to be part of the Leased Premises.
- B. Buildings: shall mean the Main Building and the fire suppression building located to the east thereof on the Leased Property.
- C. Building Systems: shall mean Standard Building and Mechanical Systems consisting of the electrical system including 400 Hz system, plumbing, heating and air conditioning systems, potable water and wastewater systems, pit ventilation system and pit utilities, wet sprinkler system, hangar doors, structural integrity of interior and exterior load-bearing walls, footings and foundations systems serving the Buildings and located on the Leased Property and painting of the exterior surfaces of the Buildings. Building Systems shall also include parking lots and aprons but shall not include the reverse-osmosis system or the de-fueling system.
- D. City: shall mean the City of Duluth, Minnesota.
- E. CPI means the revised Consumer Price Index for All Urban Consumers (CPI-U)(not seasonally adjusted, as it appears in the Monthly Labor Review published by the U.S. Department of Labor, Bureau of Labor Statistics, Series ID CUUROOOOSAO or, if such Consumer Price Index is discontinued or no longer published, such other comparable index as DEDA shall select in the exercise of its reasonable judgment by written notice to Lessee.
- F. DEDA: shall mean the Duluth Economic Development Authority.
- G. DEDA Equipment: shall mean that equipment located in the Building or on the Leased Premises identified and described on Exhibit B attached hereto and made a part hereof which is accepted for use by Lessee as provided for in Paragraph C of Article II below.
- H. DIAP: shall mean the Duluth International Airport.
- I. Director: shall mean the Executive Director of DEDA or the person designated to act on behalf of

him/her with regard to this Lease Agreement.

- J. GAAP: shall mean generally accepted accounting principals.
- K. Ground Lease: shall mean the Ground Lease dated December 21, 1994 between the City and the DAA and DEDA.
- L. Improvements: shall mean the construction or installation of any modifications or improvements to the Leased Property or the Leased Premises which require a building permit or other construction permit from any government jurisdiction having authority to issue a permit therefore, including but not limited to the Re-commissioning Improvements and Leasehold Improvements.
- M. Leased Premises: shall mean that portion of the Buildings leased to Lessee pursuant to Article II below together with all other improvements located on the Leased Property.
- N. Leased Property: shall mean that property located in St. Louis County, Minnesota legally described on Exhibit A attached hereto and made a part hereof.
- O. Leasehold Improvements: shall mean improvements, modifications or additions made to the Leased Premises by Lessee installed or constructed on the Leased Premises and which become part of the leased Premises including equipment installed on and becoming part of the Leased Premises but not including Re-commissioning Improvements or Building Systems Improvements.
- P. Main Building: shall mean the building located on the Leased Property, being north of Runway 09-27 and west of Runway 03-21 on the DIAP consisting of 189,000 square feet, more or less, of hangar space, office space, shop space and support space.
- Q. Non-structural Surfaces: shall all surfaces within the confines of the Buildings including but not limited to interior lighting systems, interior surfaces of exterior walls and exterior doors, floors and flooring, interior moldings, partitions, glass doors and ceilings and also exterior lighting of the Leased Property.
- R. Re-commissioning Improvements: shall mean those Improvements shown on Exhibit C needed to prepare the Main Building for occupancy by Lessee as shown on said Exhibit C .

ARTICLE II

LEASED PROPERTY & PREMISES

A. Generally

Subject to the terms and conditions hereinafter set forth, DEDA hereby grants and leases to Lessee the Leased Property and the Leased Premises as hereinafter described in this Paragraph A and as modified as hereinafter provided for in this Article II, for operation of a maintenance, repair and overhaul facility for commercial aircraft, and for other uses related to its business, all in the ordinary course of its business conforming in all way to applicable laws, rules and regulations. During the Term of this Lease

Agreement as hereinafter set forth, Lessee shall have use of the Leased Property and the Leased Premises for the purposes herein set forth, subject to the terms and conditions of this Lease Agreement and, unless authorized by this Lease Agreement, DEDA will take no action which will prevent Lessee from the quiet and peaceable possession thereof. By entering into this Lease Agreement, DEDA is making no warranty or representation, either expressed or implied, as to the merchantability or fitness for any particular use of the Leased Property or the Leased Premises or other representation or warranty, express or implied, with respect to the condition of the Leased Property or the Leased Premises except as explicitly set forth herein. As of the effective date of this Lease Agreement, the Leased Premises shall consist of the following:

1. 152,300 square feet, more or less, of the Main Building, constituting the entirety of the ground level of said Main Building.
2. The parking lots, sidewalks, driveways, apron and aircraft parking ramp adjacent to the Main Building.
3. The fire suppression facilities located to the east of the Main Building including the building housing the fire suppression pump and related equipment, the pump and related equipment, the fire suppression water supply ponds and all equipment and utility lines related thereto.

B. Additional Space

Lessee shall have the right to lease Additional Space by adding it to the Leased Premises at its option and without regard to whether such Additional Space is then leased to a third party, subject to the terms and conditions below and to delete any Additional Space from the Leased Premises under the terms of this Paragraph; provided that the rent payable for such Additional Space added to the Leased Premises shall be that set forth in Paragraph B of Article III below.

1. If the Additional Space Lessee wishes to add to the Leased Premises is then occupied by a third party, Lessee shall be required to give notice to DEDA of its intent to so add such space not less than Ninety (90) days prior to the effective date of such addition as provided for in Article XVII below.
2. If the Additional Space Lessee wishes to add to the Leased Premises is not then occupied by a third party, Lessee shall be required to give notice to DEDA of its intent to so add such space not less than Five (5) days prior to the effective date of such addition as provided for in Article XVII below.
3. If Lessee wishes to delete any of the Additional Space previously leased by it from the Leased Premises, Lessee shall be required to give DEDA not less than Ninety (90) days prior notice of its intent to so delete such space as provided for in Article XVII below.

C. DEDA Equipment

The parties hereby acknowledge that DEDA is the owner of that equipment listed on the attached Exhibit B. DEDA hereby agrees that Lessee shall have the right to use said equipment or any portion thereof in conjunction with the permitted uses of the Leased Premises by providing to the Executive Director, within Ninety (90) days of the signing of this Lease Agreement, written notification of its desire to so use such equipment; the equipment listed in said notice shall hereinafter be referred to as the "DEDA Equipment". DEDA hereby agrees that the DEDA Equipment shall be in fully functional and working condition within tolerances contained with the manufacturer's original specifications but otherwise makes no warranties of any kind whatsoever including warranties of fitness for use or fitness for any particular purpose and agrees that the indemnification and insurance provisions of Articles IX and X below shall apply to Lessee's use of the DEDA Equipment. Lessee agrees that Lessee will continue to allow any DEDA Equipment presently stored at the Main Building which is not used by Lessee to be stored at the Main Building at no cost to DEDA and further agrees that it will be responsible for any damage or destruction thereof or for any injury to or death of any person or persons or damage to or destruction of property arising out of the use or storage of the DEDA Equipment at the Main Building in the same manner as provided for in Article IX below.

D. Access to Airport Facilities

In addition to the foregoing, DEDA grants to Lessee the non-exclusive use of that access taxiway and ramp to the Southeast of Building, which taxiway and ramp are shown on Exhibit A attached hereto and made a part hereof.

E. DEDA Lease of Additional Space

It is contemplated by the parties that, to the extent that Lessee does not choose to lease the Additional Space, DEDA will have the right to do so and to retain any income generated therefrom. But it is also recognized that the only practical ingress and egress from the Additional Space and the only egress therefrom which will meet the requirements of applicable building codes will be through Lessee's Leased Premises. With these facts in mind, in the event that DEDA is successful in leasing any or all of the Additional Space to a third party tenant, Lessee agrees to allow such tenant and their employees and business invitees reasonable access to and from such Additional Space in a manner which is reasonable to serve the business needs of such tenant but also consonant with the reasonable security needs of the Lessee and DEDA agrees that it will be a condition of any lease with such third party tenant that such tenant's use and occupancy of such Additional Space not unreasonably interfere with Lessee's use of the Leased Premises including Lessee's reasonable security needs.

F. Grant of Easements

In the event that DEDA determines that it has a need therefore, Lessee hereby agrees to grant to DEDA, at no cost to DEDA, such road and utility easements over the Leased Premises as DEDA shall request, provided that, except during construction, maintenance and repair or renewal, such easements do not materially interfere with Lessee's use of the Leased Premises. Upon request of the Executive Director, Lessee agrees to properly execute all easement documents evidencing such grants of easement.

G. Plating and Welding Areas and Oil-water Separator

Within Two (2) months of the effective date of this Lease Agreement, DEDA will cause the clean-up of the heavy metal residue from the plating and welding areas of the Building as identified in the report of the environmental condition of the Building by Environmental Troubleshooters, Inc. In addition, DEDA will cause the oil-water separator facilities located on the Leased Premises to be tested for integrity and functionality and, if found deficient, will cause integrity and functionality to be restored at its cost.

H. Contingencies

As substantial elements of the inducement to Lessee to enter into the Lease Agreement are a package of financial incentives which are critical elements of Lessee's ability to perform its obligations under the Lease Agreement. A list of those incentives together with the character and amounts thereof and the identities of the providers thereof are attached hereto and made a part hereof as Exhibit D. In the event that any of said incentives which are desired by Lessee are not provided to the Lessee for the project that is the subject of this Lease Agreement or that the terms of the provision thereof are of such a nature as to render this Lease to be financially not viable for Lessee, Lessee shall have the option of terminating this Lease Agreement upon Thirty (30) days prior notice to DEDA as provided for in Article XVII below or of waiving such its right to do so and proceeding under the terms of this Lease Agreement.

ARTICLE III
LEASE PAYMENTS

A. Rent

As rent for the use of the Leased Premises and Leased Property as the same are defined and leased to Lessee as of the effective date of this Lease Agreement, on the first day of each month during the term of this Lease Agreement, Lessee shall pay to DEDA the amounts hereinafter set forth. Such rents shall be "net" of all costs, charges or other amounts owed by Lessee to DEDA and shall not be subject to any

delay, reduction, deduction, credit or set-off of any kind whatsoever except as hereinafter specifically authorized.

1. Through August 31st:

Commencing on the effective date of this Lease Agreement and continuing through August 31, 2012— \$-00- per month (\$0.00 per square foot).

2. September 1, 2012-June 30, 2013:

Commencing on September 1, 2012 and continuing through June 30, 2013, \$8,394 per month (\$0.66 per Square foot per year).

3. July 1, 2013-June 30, 2014

Commencing on July, 1, 2013 and continuing through June 30, 2014, the monthly rental shall be \$8,365 (\$0.66 per Square foot per year), escalated with a CPI escalation as provided for in Sub-subparagraph 5 below:

4. July 1, 2014-June 30, 2015

Commencing on July 14, 2014 and continuing through June 30, 2015, \$32,998.33 per month (\$2.60 per Square foot per year) plus an amount equal to \$0.06 per Square foot per year escalated with a CPI escalation as provided for in Sub-subparagraph 5 below .

5. After June 30, 2015

Commencing on July 1, 2015 and continuing through and annually thereafter, the amount of the monthly rent payable in any year shall increase over that paid in the previous twelve (12) month period by the amount of the CPI as defined herein and as calculated hereunder. No later than July 1 of each such year, Lessee shall provide Lessor with a written certification certifying the CPI (the "CPI Certificate") for the twelve (12) month period. Thereafter each month's rent during said year shall be increased over that paid in the previous twelve (12) month period by an amount equal to multiplying the amount of the CPI increase on said CPI Certificate by the monthly rent paid in the preceding twelve (12) month period; provided that in no event shall any monthly rent increase more than three (3%) percent annually; and provided further that if Lessee fails to deliver the CPI Certificate to Lessor by July 1 of any given year during the Term or if Lessee shall deliver a CPI Certificate which does not accurately represent the CPI increase from the previous twelve (12) month period, DEDA may determine a rate of CPI increase for that period which the Executive Director determines to be correct and apply the rate of CPI increase so determined.

B. Rent for Additional Space

In the event that, at any time from the effective date of this Lease Agreement and through June 30,

2012, Lessee leases any of the Additional Space from DEDA as provided for in Paragraph B of Article II above, the monthly rent therefore shall be in this Paragraph B below:

1. September 1, 2012-June 30, 2013:
Commencing on September 1, 2012 and continuing through June 30, 2013, \$0.08333 per square foot per month (\$1.00 per Square foot per year.)
2. July 1, 2013-June 30, 2014
Commencing on July, 1, 2013 and continuing through June 30, 2014, the monthly rental shall be \$0.08333 per square foot per month (\$1.00 per Square foot per year.), escalated with a CPI escalation as provided for in Sub-subparagraph 5 above:
3. July 1, 2014-June 30, 2015
Commencing on July 14, 2014 and continuing through June 30, 2015, \$32,998.33 per month (\$2.60 per Square foot per year).
4. After June 30, 2015
Commencing on July 1, 2015 and continuing through and annually thereafter, the amount of the monthly rent payable in any year shall increase over that paid in the previous twelve (12) month period by the amount of the CPI asset forth in Sub-subparagraph 5. of Paragraph A above.

C. Ground Lease

In addition to the obligations of Lessee to DEDA under this Lease Agreement, Lessee shall be bound to perform all obligations of DEDA under the Ground Lease when and in the same manner as DEDA is obligated to perform them except to the extent that by their nature Lessee is unable to perform any of them, in which case Lessee shall be obligated to provide all possible assistance to DEDA in the performance of the same by DEDA. Provided that the obligations of this Paragraph shall not apply to any obligation of DEDA to pay rent.

D. Miscellaneous Payments and Services

1. Maintenance Services

a.) By Lessee

Except as provided for in Sub-subparagraphs b.) and c.) below, Lessee hereby agrees to maintain the Leased Premises, the Leased Property and any other facilities thereon in a neat, clean, orderly and, where applicable, sanitary condition and to provide full maintenance, replacement and repair as necessary to the Leased Premises and to the Leased Property and to the Non-structural Surfaces and all equipment and systems located thereon and therein. Lessee shall be responsible for all general maintenance of

the Buildings including routine repair of floors, walls, ceilings and glass replacement. Lessee shall further be responsible for keeping all grass, weeds and other similar vegetative materials mowed or otherwise controlled and shall be responsible for the removal or treatment of all snow or ice on sidewalks, driveways, parking lots and aprons located on the Leased Property. In the event that Lessee fails to so maintain the Building or the Leased Premises, DEDA may itself maintain or cause to be maintained repaired or replaced, as the Executive Director shall determine in the exercise of his or her discretion, those portions of the Building or of the Leased Premises or both not so kept, and Lessee agrees to reimburse DEDA for the direct and indirect costs incurred by DEDA for the performance of said work immediately on being billed therefore by DEDA.

b.) By DEDA

Except as provided for in Paragraph A of Article VI below, DEDA shall be responsible for all costs of maintenance, repair and, if necessary, replacement of the roofs on the Buildings as determined necessary by the Executive Director. In addition, DEDA shall be responsible for ensuring the removal or treatment of ice and snow on Stebner Road and on airport public use facilities such as runways and taxiways.

c.) Building Systems

Lessee shall be responsible for performing all maintenance, repair and, if necessary, replacement of Building Systems on the Leased Premises necessary to keep such systems in substantially the same condition that they were in as of the effective date of this Lease Agreement, subject to the following. Provided that Lessee shall present to the Executive Director for his or her prior written approval any expense for any such maintenance, repair or replacement for work having a total value of \$10,000 or more, which approval shall not be unreasonably withheld. The timing of such approval or disapproval shall be in a commercially reasonable time frame provided that, in the event that, in the event that the need for the work to be performed is emergency in nature, the Executive Director shall provide such approval or disapproval as expeditiously as possible under the circumstances. If such approval is withheld, Lessee and the Executive Director shall meet and confer in good faith to determine what if any such maintenance, repair or replacement is necessary and to determine the most effective and cost effective way to accomplish such work. And, provided

further that, during the first year of the term of this Lease Agreement commencing on the effective date thereof, Lessee's obligation to pay for the cost of such maintenance, repair or replacement of Building Systems shall not exceed \$110,000 per year. After said first year and for each succeeding year of the term of this Lease Agreement and any extensions thereof, the amount of Lessee's obligation to pay for maintenance, repair and replacement of Building Systems shall be increased over its obligation therefore in the prior twelve (12) month period in the same manner as provided for in Subparagraph 5. of Article III above. The amount of any such payment obligation not expended in any twelve(12) month period shall be added to the amount available to be for said purposes in any succeeding period except that at the end of the Term of this Lease Agreement and at the end of the term of any Extension of said Term, any such amounts which have not been expended shall no longer be required to be made available for said purpose by Lessee. All costs for maintenance, repair or replacement of Building Systems in excess of the amounts to be paid by Lessee under this Sub-subparagraph shall be paid by DEDA.

2. DEDA Equipment-Maintenance and Replacement

Pursuant to Paragraph B of Article II above, DEDA has granted to Lessee the right to use the DEDA Equipment in conjunction with its use of the Leased Premises and the Leased Property. DEDA hereby represent to Lessee that, as of the date of occupancy of the Buildings, the Leased Premises and the Leased Property by Lessee, the DEDA Equipment is in good condition and working order, subject to normal wear and tear. Lessee hereby agrees to maintain and repair all of the DEDA Equipment in first-class, operating condition and to provide all parts and labor necessary to such maintenance and repair at no cost to DEDA. In the event that any piece of the DEDA Equipment is damaged, destroyed or worn so as to make such maintenance or repair unreasonable or impractical, Lessee may request written authorization from the Executive Director to abandon or replace said piece of DEDA Equipment with a piece of equipment of similar or better type, character and quality which is either new or is used but in a condition similar to that of the equipment at the commencement of this Lease Agreement. Upon receipt of such written authority, Lessee shall purchase with its own funds the piece of replacement equipment and may dispose of the piece of equipment to be replaced. Upon such acquisition, said replacement piece of equipment shall become and thereafter be DEDA Property and shall be governed by the terms and conditions of this Lease

Agreement. Lessee shall provide to the Executive Director in writing a description of the replacement equipment including the company of manufacture, the name of the equipment the model of the equipment, the model number of the equipment and the serial number of the equipment.

3. Refuse and Garbage

Lessee shall have all responsibility for the disposal of refuse and garbage generated by its operations at the Building or of the Leased Premises and agrees to absorb all costs related thereto.

4. Utilities

Lessee shall pay any and all charges for utilities furnished to the Building or of the Leased Premises, including but not limited to hook-up charges and assessments related to all utilities, including but not limited to fuel oil, heat, air conditioning, if any, water, sewer, gas, telephone, cable TV and electrical power.

E. Taxes

Subject to the provisions of Minnesota Statutes Section 469.315(5) (JOBZ), Lessee shall promptly pay or cause to be paid all lawful taxes and governmental charges, including real estate taxes and fees or taxes in lieu of real estate taxes at any time levied upon or against it for the Leased Premises or the Leased Property. Lessee shall further be obligated to pay any sales and use taxes imposed by any governmental entity entitled to impose such taxes on or before the date they are due and to file all required reports and forms in proper form related thereto on or before their due date; provided that nothing shall prevent Lessee from contesting in good faith, any such payment requirement except as such contest would negatively affect the DEDA's rights under this Lease Agreement or result in a lien being placed on the Leased Property, the Leased Premises or both.

F. Assessment Fees and Charges

Lessee shall pay or cause to be paid when due or payable all special assessments levied upon or with respect to the Leased Property or of the Leased Premises; and to pay all fees, charges and rentals for utilities, service or extensions for the Leased Property or of the Leased Premises and all other charges lawfully made by any governmental body for public improvements; provided that nothing shall prevent Lessee from contesting in good faith, any such payment requirement except as such contest would negatively affect the DEDA's rights under this Lease Agreement or result in a lien being placed on the Leased Property, the Leased Premises or both. Lessee shall also be entitled to avail itself of the most advantageous terms of payment, in Lessee's judgement, made available by the assessing authority to pay any such assessment.

G. Other Costs of Building or of the Leased Premises

In addition to the foregoing costs and charges set forth above, Lessee shall bear, and promptly pay, on or before the date due, all other costs, fees and charges of any kind whatsoever, arising out of the occupancy of the Leased Property or of the Leased Premises; provided that nothing shall prevent Lessee from contesting in good faith, any such payment requirement except as such contest would negatively affect the DEDA's rights under this Lease Agreement.

H. Payment by DEDA

Should Lessee fail to pay any such costs, fees or charges set forth above or otherwise necessary to the preservation and use of the Leased Property or of the Leased Premises or to Lessee's business thereon, DEDA may, at its sole discretion and upon ten (10) days prior, written notice to Lessee, pay such costs, fees and charges and thereupon, Lessee shall promptly reimburse DEDA for the same and DEDA may collect the same as it deems appropriate including exercising the remedies authorized under Article XIV of this Lease Agreement.

I. Payment Obligations Unconditional

The obligations of Lessee to pay any amounts due to DEDA under this Lease Agreement in accordance with the terms hereof shall be absolute and unconditional, irrespective of any defense or rights of set off, recoupment or counterclaim which may at any time be available against DEDA. Such payments shall be due without notice or demand therefore except as specifically provided for herein. Provided however, that in the event that the Building is so damaged or destroyed by any cause arising out events not resulting from the intentional or grossly negligent acts or omissions of Lessee or its officers, agents, servants or employees and the damage is so extensive that Lessee is unable to substantially carry on its business in the Building, Lessee shall be relieved of paying any rent to DEDA during the time required to repair or rebuild the Building to the point where Lessee can resume conduct of its business in the Building.

J. Time for Payment and Manner of Payment

All Rent payments and Rent for Additional Space shall be due and payable on the first day of the month to which they are attributable. All other payments and reimbursements to DEDA called for by this Lease Agreement shall be due and payable thirty (30) days from the date of DEDA's invoice to Lessee for said payments and reimbursements.

ARTICLE IV

TERM

A. Initial Term

The Term of this Lease Agreement shall be deemed to commence on the date first above shown and shall run through June 30, 2019, unless sooner terminated as hereinafter provided for.

B. Options

After the initial term of this Lease Agreement, Lessee shall have the option of extending the Term hereof for five (5) additional Five (5) year terms. No later than January 1, 2019, Lessee may give notice to DEDA as provided for in Article XVII below of its desire to extend the Term of this Lease Agreement for an additional Five (5yrs) year period. Is such option is exercised, no later than January 1, 2024, Lessee may give notice to DEDA as provided for in Article XVII below of its desire to extend the Term of this Lease Agreement for a second additional Five (5yrs) year period. Upon exercise of one or both of the options herein granted, the period thereof shall be deemed to be part of the Term of this Lease Agreement.

C. Termination

In the event that Lessee reasonably determines that continued leasing of the Leased Premises and the Leased Property is not commercially viable for Lessee, including the inability to secure a commitment from one or more customers of aircraft maintenance, repair and overhaul services sufficient to make retention of the Leased Property and Leased Premises and operation of it maintenance, repair and overhaul business therein financially viable, despite its best efforts to do so, Lessee agrees to provide to the Executive Director the reasons therefore in writing. Thereafter, Lessee shall have the right to terminate this Lease Agreement upon One Hundred Eighty (180) days prior notice to DEDA as provided for in Article XVII below. In such eventuality, the provisions of this Lease Agreement, including but not limited to Article VII below shall continue to apply.

ARTICLE V

Development Goals/Reporting Obligations

A. Definitions.

For the purposes of determining whether the goals set forth in Paragraph B have been met, the following terms shall have the meanings herein after ascribed to them.

1. "Reporting Period" shall mean that calendar year, from January 1st of any year through December 31st of that calendar year, prior to the year in which a report referred to in Paragraph C below is required.

2. "Subsidy Amount" shall mean the difference between the market rent per square foot for the Leased Property and the Leased Premises which is stipulated to be \$2.00 per square foot per year and the amount of Rent and Rent for Additional Space actually paid by Lessee between the commencement date of this Lease Agreement and June 30, 2014 for those months during which Lessee leases the Leased Property and the Leased Premises pursuant to the provisions of Paragraphs A and B of Article III above.

B. Business Subsidy

It is acknowledged that, as a result of this Lease Agreement, Lessee will receive a "Business Subsidy" as that term is defined in Minnesota Statutes 116J.994. The purpose of providing said subsidy is to relieve DEDA as a governmental agency of the costs of maintaining and expensive asset and to generally stimulate economic development in the economy of Northeastern Minnesota. The subsidy is needed because, based on its ownership of the property since before 2005 and its unsuccessful efforts to secure a long-term tenant for the facility, DEDA has determined that, without re-utilization of the Leased Property and the Leased Premises would not occur in the foreseeable future. A list of all financial assistance by all grantors is attached hereto as Exhibit D.

C. Development Goals

As a substantial element of the consideration to DEDA for the performance of its obligations under this Lease Agreement and as a necessary condition thereof, Lessee has agreed and committed to DEDA that it will pay and thereby relieve DEDA and the public of all operating and maintenance costs of the Building and the Leased Premises, subject to the limitations of Paragraph d.1.c. of Article III above

D. Reporting Requirement

On or before March 31st of each year following the signing of this Lease Agreement and until no longer required to do so as set forth below in this Paragraph, Lessee shall file with DEDA reports on forms approved in advance in writing by the Executive Director setting forth Lessee's progress in meeting the goals described in Paragraph B above during the preceding Reporting Period. Said report shall be accompanied by such documentation as the Executive Director shall request. All such reports shall contain the following legend immediately above the signature block for each report:

"All data and information furnished on this report, attached to this report or furnished with or in conjunction with this report or the requirement to file it is true and correct to the best of my ability to discern the same after diligent inquiry on my part and my signature hereon shall be deemed to bind both the Lessee and myself personally to the veracity of the information so furnished."

All such reports shall be signed on behalf of Lessee by Lessee's President or group Vice President if Lessee is a corporation, by a general partner of Lessee if Lessee is a general or a limited partnership or by all persons having an interest in Lessee or the Property or both if Lessee is other than a corporation or a partnership.

E. Additional Enforcement

In addition to the provisions of Article XI below, in the event that Lessee shall fail for any reason whatsoever to meet the reporting requirements of Paragraph C above fully and completely and in a timely manner as required in said Paragraph C or shall have failed to (i.) pay when due all operating and maintenance costs of the Building and the Leased Premises as described in Paragraph D of Article II above or (ii.) shall have failed to have performed the Initial Improvements as described in Paragraph A or Article VI below in accordance with the terms thereof, said failure shall be deemed to be a material breach of the terms and conditions of said Article XI and of this Lease Agreement in general and, in addition to the rights and remedies available to DEDA pursuant to said Article, DEDA shall be entitled to recover the net Subsidy Amount as set forth in Exhibit G attached hereto and made a part hereof received by Lessee. In addition DEDA shall further be entitled to withhold any payment of any kind whatsoever due from DEDA to Lessee, whether under this Lease Agreement or arising from any other source whatsoever and to withhold the performance of any obligation owed by DEDA to Lessee, whether under this Lease Agreement or arising from any other source whatsoever, until Lessee's reporting obligations pursuant to Paragraph C above and Lessee's increased. Rent obligations under this Paragraph have been fully complied with. Furthermore, DEDA shall be entitled to reimbursement for any costs whatsoever, direct or indirect, including the value of staff time and attorneys' fees and costs, incurred by DEDA to secure Lessee's compliance with the said Reporting requirements. All amounts owed to DEDA under this Article shall bear interest from the date payable at a rate equal to the implicit price deflator for government consumption expenditures and gross investment for state and local governments prepared by the Bureau of Economic Analysis of the United States department of Commerce for the 12-month period ending March 31 of the previous year. Provide that DEDA may, in the exercise of its sole discretion extend the times for performance of Lessee's obligations hereunder as authorized pursuant to Minnesota Statutes Section 116J.994 Subd. 6.

ARTICLE VI

CONSTRUCTION OR ALTERATION

Subject to Paragraph A below, Lessee shall not make, construct or cause to be made or constructed any

improvements to the Leased Property or to the Leased Premises without the prior written consent of the Executive Director. The process for requesting and receiving such consent is that set forth in this Article.

A. Initial Improvements

Upon the signing of this Lease Agreement, Lessee hereby agrees that it will promptly undertake, commence and complete the construction and installation of the Re-commissioning Improvements as shown on Exhibit C and those Leasehold Improvements set forth in Exhibit E, attached hereto and made a part hereof. The minimum out-of-pocket cost of said Leasehold Improvements shall equal or exceed \$150,000 and shall be in excess of the cost of the Re-commissioning Improvements. It is anticipated that the costs of the Re-commissioning Improvements will be funded through a BID conditional grant from DEDA and that Lessee will itself fund the cost of all Leasehold Improvements shown on said Exhibit E. The Director will use his or her good offices to assist Lessee in securing permits from the City for the Re-commissioning Improvements and the Leasehold Improvements to the extent of his authority to do so. Said Re-commissioning Improvements and said Leasehold Improvements shall be constructed and installed in accordance with the terms of this Article.

B. Plans, Specifications and Elevations

1. Initial Plans:

No less than thirty (30) days prior to the commencement of construction of any such proposed Improvements, Lessee shall submit working drawings, specifications and architectural elevations if relevant for modification or alteration together with detailed site, grading, utility and landscaping plans and elevations, as the Executive Director reasonably deems necessary, to the Executive Director for approval. All such plans, specifications and elevations shall be in conformity with this Lease Agreement, and with all applicable laws, ordinances, rules, regulations and requirements of the City, State of Minnesota and United States of America Authorities. The Executive Director shall accept or reject said plans within ten (10) days of receipt thereof. If the Executive Director rejects such plans, specifications and elevation in whole or in part as not being in compliance with the foregoing requirements, and upon notification to Lessee of said rejection together with the reason or reasons therefore, Lessee shall submit new or corrected plans, specifications and elevations meeting said objections within thirty (30) days of said notice. The provisions of this Subparagraph relating to approval, rejection and resubmission of corrected plans hereinabove provided for with respect to the originally submitted plans, specifications and elevations shall continue to apply until said plans, specifications and elevations have been approved by the Executive Director. The Executive Director's acceptance of Lessee's plans, specifications and elevations shall not constitute a

waiver of building code or ordinance or other developmental duties imposed in the future upon Lessee by law. Lessee expressly agrees to be solely responsible for all costs, including architectural fees connected with said plans, specification and elevations and any revisions thereto.

2. Changes After Initial Approval

Any changes made to plans by Lessee after initial approval of the Executive Director reasonably deemed to him or her to be material or substantial shall be submitted to him or her for acceptance in the same manner provided for in Paragraph A above.

C. Construction Documents

Prior to the commencement of any construction under this Article, Lessee shall furnish to the Executive Director a construction contract with one or more contractors licensed to do business in the State of Minnesota and competent to construct the work shown in the Plans approved pursuant to Paragraph A above, which plans shall be for the construction of all of the improvements or modifications shown in said Plans. All such contracts and bonds shall be approved in writing by the Executive Director prior to the commencement of such construction.

D. Construction of Improvements

Upon approval of the plans and specifications as provided for in Paragraphs A and B above, Lessee shall promptly commence construction of the Improvements in conformance with the plans as so approved and shall complete construction thereof as expeditiously as is practical.

E. Lessee to Bear All Costs

Subject to the terms and conditions of this Lease Agreement, Lessee specifically guarantees and agrees to bear all costs related to the construction and installation of said Improvements.

E. Progress Reports

Until construction of the Improvements has been completed, Lessee shall make reports in such detail and at such times as may reasonably be requested by DEDA as to the actual progress of such construction.

F. Certificate of Completion

Promptly upon completion by Lessee, in accordance with this Lease Agreement, of the construction any such Improvements, DEDA shall furnish to Lessee an appropriate certificate so certifying. No such certification shall be issued until all elements of the construction have been completed. Such certification by DEDA shall constitute a conclusive determination of satisfaction of construction obligations of Lessee undertaken pursuant to this Lease Agreement.

ARTICLE VII

SURRENDER OF POSSESSION

A. General

Upon the expiration or other termination of this Lease Agreement, Lessee's rights to use the Leased Property and the Leased Premises, facilities and equipment herein granted shall cease and Lessee shall, upon expiration or termination, promptly and in good condition surrender the same to DEDA. In the event that Lessee has in any way changed, altered or modified the Leased Property or the Leased Premises demised herein, other than those improvements approved as herein provided for, Lessee covenants to return the same to the condition they were in at the time of the signing of this Lease Agreement or, in the alternative, to pay DEDA for the cost of returning them to said condition unless waived by the Executive Director in writing. Upon termination, any Leasehold Improvements which have become part of the realty shall become part of the Leased Premises of DEDA, and the same, together with the Leased Property and the Leased Premises, shall be immediately returned to the control of DEDA. Any Leasehold Improvements not part of the realty shall be removed therefrom within fifteen (15) days after the termination of this Lease Agreement or the same shall be deemed to have been abandoned to DEDA and the right of the Lessee to possession thereof shall cease. Upon termination of this Lease Agreement, Lessee will waive any and all rights, if any, to relocation benefits under the Uniform Acquisition Assistance and Relocation Act of 1974, as amended, and any laws or regulations promulgated with regard thereto which might arise out of this Lease Agreement.

B. Environmental Conditions

Incorporated by reference into this Lease Agreement as Exhibit F thereto, which shall be deemed to be a part hereof, is a report on the environmental condition of the Leased Property and the Leased Premises to be prepared by TETRA TECH environmental engineers which incorporates an earlier report prepared for DEDA by Environmental Troubleshooters, Inc. (the "Environmental Report") to be agreed upon by Lessee and DEDA as representing the environmental condition of the Leased Property and Leased premises as of the commencement of the Term of this Lease Agreement but it is acknowledged by the parties that the "Environmental Report" is not comprehensive in scope and conditions may exist on the Leased Premises that are not adequately described in the Environmental Report. Upon termination of this Lease Agreement for any reason whatsoever, Lessee shall restore the Leased Property and the Leased Premises to as good an environmental condition and state as it was at the time of such commencement of the Lease Agreement. shall pay all costs associated therewith including costs of clean-up if any, costs of environmental testing of any kind, costs of the preparation of any reports required as part of any such process and the costs, if any, associated with reviews and

approvals required by any governmental agency having jurisdiction to conduct such reviews, along with any other costs associated therewith. The Environmental Report shall be presumed to represent the environmental condition of the Leased Premises at the time of the commencement of the Lease Agreement. In addition to the foregoing, Lessee shall cause to be prepared and delivered to DEDA a report similar to the Environmental Report evidencing that the conditions of this Paragraph have been met. Provided, however, that nothing herein shall require Lessee to perform clean-up with regard to conditions on or in the Leased Property or the Leased Premises which (i.) Lessee establishes existed thereon upon the commencement of this Lease Agreement, (ii.) which arise out of the acts or omissions of DEDA or its officers, agents, employees or contractors or (iii.) which have their source in the acts or omissions of a third party arising on or from property other than the Leased Property or the Leased Premises and which have migrated onto the Leased Premises by virtue of run-off, percolation or other natural means.

ARTICLE VIII

PROVISION AGAINST LIENS

A. Provision Against Liens

Except for encumbrances permitted pursuant to Paragraph B below, the Lessee shall not create or permit any mortgage, encumbrance or allow any mechanic's or materialmen's liens to be filed or established or to remain against the Leased Property, the Leased Property or any part thereof which would materially or adversely affect the DEDA's interest in this Lease Agreement during the term of this Lease Agreement, provided that if Lessee shall first notify DEDA of its intention to do so, Lessee may, in good faith, contest any such mechanic's or other liens filed or established as long as DEDA does not deem its interest or rights in this Lease Agreement to be subject to foreclosure by reason of such context.

B. Provision Against Assignments, Transfers or Change in Identity of Lessee

The parties hereto acknowledge that DEDA is relying upon the qualifications and identify of Lessee to operate the Leased Property and the Leased Premises. Therefore, except for the purposes of obtaining financing as hereinafter described or otherwise approved by this Lease Agreement, Lessee represents and agrees for itself, its successors and assigns that it has not made or created, and will not make or create or suffer to be made or created, any total or partial sale, assignment, conveyance, lease, trust, lien or power of attorney, and has not or will not otherwise transfer in any other way all or any portion of the Leased Property, the Leased Premises, the Lessee, this Lease Agreement or any other contract or

agreement entered into in connection with carrying out its obligations hereunder; and except for mortgaging approved in writing by the Executive Director, Lessee will not make or create or suffer to be made any such transfer of Lessee's rights hereunder without the prior approval of DEDA.

ARTICLE IX
INDEMNIFICATION

A. Generally by Lessee

Lessee will to the fullest extent permitted by law, protect, indemnify and save DEDA and its officers, agents, servants, employees and any person who controls DEDA within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from any injury to or death of any person or from any damage to the Leased Property, the DEDA Equipment or the Leased Premises in or upon the Leased Property, the DEDA Equipment or the Leased Premises, or growing out of or in connection with the use or non-use, condition or occupancy of the Leased Property, the DEDA Equipment or the Leased Premises or any part thereof and also, without limitation, any and all acts or operations related to the construction or installation of the Project on any portion of the Leased Property, the DEDA Equipment or the Leased Premises. The foregoing indemnification shall not be limited in any way by any limitation on the amount or type of damage, compensation or benefits payable by or for the Lessee, customers, suppliers or affiliated organizations under any Workers' Compensation Act, Disability Benefit Acts or any other Employee Benefit Acts. Provided that the indemnification provided for in this Paragraph shall not extend to any such liability covered by insurance provided by or for Lessee's benefit under the terms of this Lease Agreement subject to the limits of such insurance.

B. Environmental Indemnification.

In addition to the generality of the foregoing, Lessee hereby agrees that for itself, its successors and assigns that it will indemnify and save the DEDA and its officers, agents, servants and employees and any person who controls the DEDA within the meaning of the Securities Act of 1933 harmless from and against all liabilities, losses, damages, costs, expenses, including reasonable attorneys' fees and expenses, causes of action, suits, claims, demands and judgments arising out of any condition existing on the Leased Property, the DEDA Equipment or the Leased Premises arising out of Lessee's use and occupancy of the Leased Premises or the Leased Property, the DEDA Equipment or both and that indemnification granted hereby shall include all costs of required clean-up, remediation, together with the costs incurred in proceedings before any court of law or administrative agency, including attorneys'

fees, expenses, the fees and expenses of persons providing technical expertise addressing such problems, including expert witnesses, the costs of preparing and securing approval of Response Action Plans, as defined by the foregoing agencies, as may be necessary to meet the requirements of said agencies and any other costs and expenses of any kind whatsoever arising out of conditions existing on the Leased Property, the DEDA Equipment or the Leased Premises

C. Generally by Lessor

Notwithstanding the foregoing, DEDA will to the fullest extent permitted by law, protect, indemnify and save Lessee and its officers, agents, servants, employees and any person who controls Lessee within the meaning of Securities Act of 1933, harmless from and against all liabilities, losses, damages, costs, expenses, including attorneys' fees and expenses, causes of action, suits, claims demands and judgements of any nature arising from any injury to or death of any person or damage to property in or upon the Leased Property or the Leased Premises arising out of and to the extent of the intentional or negligent acts or omissions of DEDA and its officers, agents, employees and contractors except for environmental conditions identified in the Environmental Report or established by Lessee as existing on the Leased Premises as of the commencement of this Lease Agreement.

D. Indemnification Procedures

Promptly after receipt by the indemnitee of notice of the commencement of any action with respect to which the indemnitor is required to indemnify such person under this Article, indemnitee shall notify the indemnitor in writing of the commencement thereof, and, subject to the provisions as hereinafter stated, the indemnitor shall assume the defense of such action, including the employment of counsel satisfactory to the indemnitee and the payment of expenses. In so far as such action shall relate to any alleged liability of the indemnitee with respect to which indemnity may be sought against the indemnitor, indemnitee shall have the right to employ separate counsel in any such action and to participate in the defense thereof, and the fees and expenses of such separate counsel shall be at the expense of the indemnitor.

ARTICLE X

INSURANCE

Except for the permanent property insurance provided for in Subparagraph 1 of Paragraph B below, Lessee shall procure and continuously maintain insurance covering all risks of injury to or death of persons or damage to the Leased Property or the Leased Premises arising in any way out of or as a result of Lessee's occupancy of or use of the Leased Property or Leased Premises, carried in the names of the Lessee, any

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subtenant and the DEDA as their respective interests may appear, as follows:

A. Insurance During Construction

Lessee, prior to entering on the Leased Property for construction work, shall procure or cause to be procured and maintain or require all contractors to procure and maintain insurance of the type and in the amounts determined by the Executive Director to be appropriate to the construction work to be performed by Lessee and adequate to protect DEDA, Lessee and the Building, the Leased Property and the Leased Premises from liability arising therefrom:

1. Property Insurance

Lessee shall provide property insurance meeting the requirements set forth above.

2. Public Liability Insurance

Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form with "Broad Form" property damage liability coverage, with XCU exclusion removed, in limits of not less than Five Million and 00/100ths (\$5,000,000.00) Dollars aggregate per occurrence for personal injury, bodily injury and death, and limits of One Million Five Hundred Thousand and 00/100ths (\$1,500,000.00) Dollars for property damage liability. If per person limits are specified, they shall be for not less than One Million Five Hundred Thousand and 00/100ths (\$1,500,000.00) Dollars per person and be for the same coverages. Contractor shall also require such liability coverage of its subcontractors unless they be insured under contractor's policies. Contractor's and subcontractors' liability coverages shall include:

- a. Contractors' public liability--premises and operations;
- b. Independent contractors' protective contingent liability;
- c. Personal injury;
- d. Owned, non-owned, and hired vehicles;
- e. Contractual liability covering customary construction contract and subcontract indemnify provisions; and
- f. Workers' Compensation coverage in required statutory limits. Policy shall carry an "all states" endorsement. In addition, employers liability coverage shall be maintained in limits of One Hundred Thousand and 00/100ths (\$100,000.00) Dollars per employee.

B. Permanent Insurance

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1. Property Insurance

During the entire Term of the Lease Agreement, the Leased Premises, including all fixtures, equipment and machinery which are or become a part of the Leased Premises and the DEDA Equipment, shall be insured to the full replacement value thereof against all risk of Direct Physical Loss, by DEDA. Lessee agrees to reimburse DEDA for its costs of securing such insurance and that such reimbursement is included in the Rent as provided for in Paragraph A. of Article III above. DEDA agrees that all rights of subrogation are waived against Lessee and its officers, agents, servants and employees with regard thereto.

2. Liability Insurance

The Lessee shall procure and maintain continuously in force Public Liability Insurance written on an "occurrence" basis under a Comprehensive General Liability Form in limits of not less than Two Million and No/100s (\$2,000,000.00) Dollars aggregate per occurrence for personal bodily injury and death, and limits of Two Million and No/100s (\$2,000,000.00) Dollars for Leased Premises damage liability. If person limits are specified, they shall be for not less than Two Million and No/100 (\$2,000,000.00) Dollars per person and be for the same coverages. The DEDA shall be named as an additional insured therein. Insurance shall cover:

- a. Public liability, including premises and operations coverage.
- b. Independent contractors--protective contingent liability.
- c. Personal injury.
- d. Owned, non-owned and hired vehicles.
- e. Contractual liability covering the indemnity obligations set forth herein.
- f. Products--completed operations.
- g. Property of Others.

3. Workers' Compensation

Workers' Compensation Coverage in statutory amounts with "all states" endorsement.

Employees liability insurance shall be carried in limits of One Hundred Thousand and No/100 (\$100,000.00) Dollars per employee.

C. Excess Coverage

In addition to the foregoing, Lessee shall secure and provide an "umbrella" insurance policy in the amount of not less than Five Million Dollars (\$5 Million) providing coverage in excess of that provided for in Paragraphs A and B above

D. Requirements for All Insurance

All insurance required in this Article X shall be taken out and maintained in responsible insurance companies organized under the laws of the states of the United States and licensed to do business in the State of Minnesota.

E. Policies

The Lessee shall be required to supply to the DEDA certificates of insurance evidencing that Lessee has insurance meeting the requirements of this Lease Agreement. Lessee agrees to use its best efforts to supply such certificates in a form which will require the insurer to give the DEDA thirty (30) days' written notice prior to cancellation or modification of said insurance.

ARTICLE XI

LESSEE DEFAULTS AND REMEDIES THEREFORE

A. General Defaults and Remedies

1. General Events of Default

The following shall be deemed to be general events of default by Lessee under the terms and conditions of this Lease Agreement to which the remedies set forth in Subparagraph 2 below shall be applicable as otherwise set forth in this Lease Agreement.

- a. Lessee shall fail to pay any payment due to DEDA under Article III above within ten (10) days of the date said payment is due.
- b. Lessee shall fail to observe or perform any of the other terms, conditions, covenants or agreements required to be observed or performed by it or any successors or assigns of Lessee pursuant to this Lease Agreement and such failure shall continue for a period of thirty (30) calendar days after DEDA has, pursuant to the provisions of this Lease Agreement, given written notice to Lessee of such default or, in the event that such default shall be incapable of cure during said thirty (30) day period, shall have failed to commence to cure said default within thirty (30) days of the date of said notice and to diligently pursue the same to completion.
- c. Except as otherwise specifically permitted herein, Lessee shall permit any liens on the Leased Property or the Leased Premises with the exception of assignments approved pursuant to the terms of this Lease Agreement or liens contested in accordance with Article VII above.
- d. Lessee makes an assignment for the benefit of its creditors or admits in writing its inability to pay its debts as they become due; or an adjudication of bankruptcy or insolvency as made as to Lessee or its business; or Lessee files a petition of bankruptcy or files a petition seeking any reorganization, dissolution, liquidation, or rearrangement, composition, readjustment or

similarly under any present or future bankruptcy or insolvency statute, law or regulation; or Lessee files an answer admitting to or not contesting to the material allegations of a petition filed against in such proceeding or fails to have dismissed or vacated within thirty (30) days after its filing such a petition or seeks or consents or acquiesces in the appointment of any trustee, receiver or liquidator of a material part of Lessee's properties or fails to have dismissed or vacated within thirty (30) days after the appointment without the consent or acquiescence of Lessee of any trustee, receiver or liquidator of any material part of Lessee's properties.

2. General Remedies

Except as otherwise set forth in this Lease Agreement, DEDA shall have the following remedies in the event of a default by Lessee:

- a. Terminate this Lease Agreement and, at its discretion, retake the Leased Property and the Leased Premises from Lessee, subject to rights conferred on Lessee by applicable State Statute.
- b. Seek and be entitled to monetary damages from Lessee for any damages incurred by DEDA as a result of Lessee's default.
- c. Seek and be entitled to injunctive or declaratory relief as is necessary to prevent Lessee's violation of the terms and conditions of this Lease Agreement or to compel Lessee's performance of its obligations hereunder.
- d. Seek such other legal or equitable relief as a court of competent jurisdiction may determine is available to DEDA.

B. Non-Waiver

The waiver by DEDA of any default on the part of Lessee or the failure of DEDA to declare default on the part of Lessee of any of its obligations pursuant to this Lease Agreement shall not be deemed to be a waiver of any subsequent event of default on the part of Lessee of the same or of any other obligation of Lessee hereunder. And, to be effective, any waiver of any default by Lessee hereunder shall be in writing by DEDA.

C. Remedies Cumulative

Except as specifically set forth herein, the remedies provided under this Lease Agreement shall be deemed to be cumulative and non-exclusive and the election of one remedy shall not be deemed to be the waiver of any other remedy with regard to any occasion of default hereunder.

D. Attorneys' Fees

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In the event that either party is in default of any of the terms and conditions of this Lease Agreement and the non-defaulting party shall successfully take legal action to enforce said rights herein, in addition to the foregoing, such non-defaulting party shall be entitled to reimbursement for its reasonable attorneys' fees and costs and otherwise for its costs and disbursements occasioned in enforcing its rights hereunder.

ARTICLE XII
FORCE MAJEURE

Under the terms of this Lease Agreement, neither the DEDA nor Lessee shall be considered in default or in breach of any of the terms with respect to the performance of their respective obligations under this Lease Agreement in the event of enforced delay in the performance of its obligations due to unforeseeable causes beyond its control and without its fault or negligence, including but not limited to acts of God, acts of a public enemy, acts of the federal government, acts of another party, fire, floods, epidemics, strikes or embargoes, or for delays of contractors or subcontractors due to such causes. In the event of any such delay, any time for completion or delivery under this Lease Agreement shall be extended for the period of any such delay upon written notice from the party seeking the extension to the other party.

ARTICLE XIII
REPRESENTATIONS BY DEDA

DEDA represents and warrants that as of the date hereof:

- A. It is a lawfully constituted municipal corporation under the laws of the State of Minnesota, it is not in material violation of any provisions of State law and that it has full power and authority to enter into this Lease Agreement and perform its obligations hereunder.
- B. There are no actions, suits or proceedings pending, or to the knowledge of DEDA, threatened against DEDA or any Leased Premises of DEDA in any court or before any Federal, State, municipal or governmental agency which, if decided adversely to DEDA, would have a material adverse effect upon DEDA or any business or Leased Premises of DEDA and DEDA is not in default with respect to any order of any court or government agency.
- C. DEDA has investigated and has no knowledge that a DEDA Council Member or other member, official, or employee of DEDA is directly or indirectly financially interested in this Lease Agreement or in any transactions concluded in connection with this Lease Agreement.
- D. DEDA shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Lease Agreement or otherwise delivered to any third parties

under this Lease Agreement to be true, correct and complete in all material respects.

ARTICLE XIV

LESSEE'S REPRESENTATIONS AND WARRANTIES

Lessee represents and warrants that as of the date hereof:

- A. It is a lawfully constituted corporation under the laws of the State of Illinois, is not in material violation of any provisions of State law and that it has full power and authority to enter into this Lease Agreement and to perform its obligations hereunder.
- B. That it is fully competent to lease the Leased Property and the Leased Premises under all laws, rulings, regulations and ordinances of any governmental authority having jurisdiction and that he agrees to comply with all applicable State, Federal acquisition and relocation laws, wages and hours laws, including Davis-Bacon and local versions thereof or similar laws at its own expense.
- C. That there are no actions, suits or proceedings pending or, to the knowledge of Lessee, threatened against Lessee or any leased premises in any court or before any Federal, State or municipal or other governmental agency which, if decided adversely to Lessee, could have a material adverse affect upon Lessee or any Leased Property or Leased Premises, and that Lessee is not in default of any order of any court or governmental agency.
- D. It is not in default of the payment of principal of or interest on any indebtedness for borrowed money or in default under any instrument or agreement pursuant to which the indebtedness has been incurred.
- E. Lessee shall do such things as are necessary to cause any information, document, certificate, statement in writing, or report required under this Lease Agreement delivered to any third party under this Lease Agreement to be true, correct and complete in all material and respects. If necessary Lessee agrees to perform any survey work prior to construction and all descriptions and exhibits hereto and definitions herein shall be subject to such revisions as are necessary after completion of any survey.

ARTICLE XV

RUNS WITH THE LAND

This Lease Agreement shall be deemed to run with the land and shall enure to the benefit of the parties hereto and to their successors and assigns.

ARTICLE XVI

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SALE OF DEDA EQUIPMENT

Notwithstanding anything in the foregoing to the contrary, the Executive Director may, at any time and in the exercise of his or her discretion, determine to sell any or all of the DEDA equipment as he or she deems it to be in the best interest of DEDA. IF the DEDA Equipment is not being used by Lessee in the course of its aircraft maintenance, repair and overhaul business, the Executive Director's decision may be at the request of Lessee or may be of his or her own initiation. If Lessee is using any such DEDA equipment in the course of business, the Executive Director may sell said DEDA Equipment only with the prior written approval of Lessee. The manner and method of such sale shall be determined by the Executive Director and shall be intended to produce the highest return to DEDA. If the Executive Director requests Lessee's assistance in selling any such equipment, Lessee shall be entitled to compensation in an amount commensurate with the market value of the services provided by Lessee.

XVII

NOTICES

Any notice, demand or other communication under this Lease Agreement by either party to the other shall be deemed to be sufficiently given or delivered if it is dispatched by registered or certified mail, postage prepaid to:

In the case of DEDA:

DEDA of Duluth
Room 400 City Hall
411 West First Street
Duluth, MN 55802

In the case of Lessee:

AAR Aircraft Services, Inc.
c/o AAR Corp.
1100 N. Wood Dale Road
Wood Dale, IL. 60191
Attn: General Council

ARTICLE XVIII

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APPLICABLE LAW

This Lease Agreement together with all of its Articles, paragraphs, terms and provisions is made in the State of Minnesota and shall be construed and interpreted in accordance with the laws of the State.

IN WITNESS WHEREOF, the parties have hereunto set their hands and seals the day and year first shown above.

DULUTH ECONOMIC DEVELOPMENT
AUTHORITY, an economic
development authority

AAR AIRCRAFT SERVICES, INC., an
Illinois Corporation

By _____
Its President

By: _____
its President
"Lessee"

Attest:

By _____
Secretary

Approved:

Countersigned:

Assistant City Attorney

City Auditor

STATE OF ILLINOIS)
) ss.
COUNTY OF COOK)

The foregoing instrument was acknowledged before me this ____ day of _____, 2012, by
, the _____ of AAR Aircraft Services Inc., an Illinois corporation, on behalf of the corporation.

Notary Public

STATE OF MINNESOTA)

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COUNTY OF ST. LOUIS)

Notary Public

(218) 730-5490

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OC

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DULUTH ECONOMIC DEVELOPMENT AUTHORITY

NWA MRO FACILITY

AAR AIRCRAFT SERVICES, INC.

EXHIBITS

- Exhibit A— Leased Property Legal Description
- Exhibit B— DEDA Equipment list
- Exhibit C— Recommissioning
- Exhibit D— Financial Assistance/Grantors
- Exhibit E— Leasehold Improvements
- Exhibit F— Environmental Report
- Exhibit G— Business Subsidy Recovery Schedule

Exhibit A

Leased Property Legal Description

The Leased Property is all within Section 1, Township 50 North, Range 14 West and is generally described as follows:

Commencing at the point of intersection of the north line of Section 1, Township 50 North, Range 15 West with the north-south centerline of said Section 1; then south along said north-south centerline on a bearing of South 0 degrees 15 minutes 25 seconds East a distance of 699.87 feet to the point of beginning of the parcel to be described; thence turning to the left and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 316.22 feet to a point; thence turning to the right and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 600.00 feet to a point; thence turning to the right and continuing on a bearing of South 70 degrees 0 minutes 44 seconds West a distance of 675.23 feet to a point; thence turning to the left and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 361.60 feet to a point; thence turning to the right and continuing on a bearing of South 70 degrees 0 minutes 44 seconds West a distance of 673.67 feet to a point; thence turning to the right and continuing on a bearing of North 19 degrees 59 minutes 16 seconds West a distance of 1140.47 feet to a point; thence turning to the right and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 100.56 feet to a point; thence turning to the left and continuing on a bearing of North 19 degrees 59 minutes 16 seconds West a distance of 12.00 feet to a point; thence turning to the right and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 573.11 feet to a point; thence turning to the right and continuing on a bearing of South 19 degrees 59 minutes 16 seconds East a distance of 190.88 feet to a point; thence turning to the left and continuing on a bearing of North 70 degrees 0 minutes 44 seconds East a distance of 359.01 feet to the point of beginning and there terminating.

Exhibit B

DEDA EQUIPMENT

INSTALLED - GROUND FLOOR	
1	JBI Spray Booth
2	Able Howe 2 Ton Crane
3	TC American 10,000 Pound Overhead Crane
4	TC American 6,000 Pound Overhead Crane
5	Lathe Model EZ-Path NW Tag #002-082058-235 (Replacement For Clausing Lathe Sold)
6	Clausing Lathe with Accessories
8	Bridgeport Series 11 EZ Trak
9	Bridgeport Series 11 (Mill)
14	Torit Booth
15	Torit Welding Booth
16	Docking System Wing & Tail (See Also 18)
17	Docking System Wing & Tail (See Also 18)
20	Manchester Air Compressor Tank
20	Manchester Air Compressor Tank
21	Torit Booth - Adjacent to Hangar Space
26	General Pneumatics TH000A Air Compressor Filter
26	General Pneumatics TH000A Air Compressor Filter
26	Atlas Copco 2T 200 Air Compressor
26	Atlas Copco 2T 200 Air Compressor
27	Atlas Copco GA 22F1 Air Compressor
28	Two (2) Industrial Quality Air Hose/Reel IWO GI)
28	Two (2) Industrial Quality Electric Cord Reel

DEDA EQUIPMENT

INSTALLED - GROUND FLOOR (Continued)	
28	9,000 Pound Rotary Vehicle Lift
32	Cat Emergency Power Generator
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
40/41	Vertical Storage/Retrieval Unit
45	Front Desk, Monitoring/Security
	Acetylene Tank Storage Cage
	IS/Computer Room Equipment

OTHER - GROUND FLOOR	
18	Docking System Components - Parts of 16/17 Above
22	Modular Furniture and Chairs (Engineering)
23	Modular Furniture and Chairs
24	Modular Furniture and Chairs
25	Modular Furniture and Chairs
28	10-Ton Lincoln Floor Jack
28/29	Two (2) 1/4" Steel Top Workbench
30	Fuse Cabinet with Spare Fuses
31	Cafeteria Chairs and Tables
39	Clocks (13)
42	Conference Room Table and
43/44	Modular Furniture, Files, and
	Five (5) Rubbermaid Carts
	Assorted Lockset Parts

INSTALLED - UPPER LEVEL

35	JB I Spray Booth
36	Torit Booth
38	Trane MCC Air Conditioner Unit

OTHER - UPPER LEVEL

10	Sewing Machine Consew
33	Cafeteria Chairs and Tables
37	Conference Table and Chairs

OUTSIDE

34	Docking System
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Exhibit C

	Recomissioning
1	Startup on plumbing, mechanical, electrical, motors, doors, etc.
2	Mechanical check all compressors, air handlers, change filters
3	Crane testing to check all cables, wiring harnesses, controls and load test
4	Roof and transition leaks. Identify, evaluate, replace
5	Operational test and repair of A-320 aircraft docking
6	Move docking into aircraft ready position
7	Generator - test full load bank
8	Replace all batteries in facility to include but not limited to generator, fire pumps and compressors
9	Fire pump inspection under full load. Results of testing, maintenance and repair of any non operating items
10	Pond for fire protection, clean in and around pond area
11	Outside lighting for ramp and parking areas make sure sufficient and on timers
12	Mechanical for server room
13	Fire extinguishers to be checked for charge, replace or add as necessary
14	Elevator inspection and annual maintenance
15	Floor pit doors in hangar (Manholes) to be cleaned and patched for water seepage
16	Walkways, emergency exit striping to be stripped and repainted as required by local safety requierments
17	Exit Emergency lights check to make sure all meet current requirements
18	Painting to include interior of all offices specified for AAR use, restrooms.
19	Ceiling tiles to be replaced as necessary. Worn, stained or damaged tiles to be replaced.
20	Carpet, tile, repaired/ cleaned/ replaced for all offices specified for AAR use, restrooms.
21	Concrete floors to be cleaned and buffed
22	Concrete joint to be cleaned out and re-caulked on hangar floor where needed
23	Painting exterior canopy structural and any other required areas
24	Painting handrails (exterior)
25	Aircraft defueling system to be decomissioned
26	Shop/hangar hot water heater check and put in service - replace if necessary
27	Construction cleaning
28	Lighting in hangar to have switches instead of using breaker panel
29	Replace all lighting in facility with T-8/T-5 technology fixtures
30	Parking lot fill cracks, seal lot, re-stripe as needed

Exhibit D

Financial Assistance / Grantors

All of the following forms of assistance have been proposed for this project:

1. Duluth Economic Development Authority (DEDA) Lease Subsidy, maximum - \$443,700
2. DEDA Conditional Grant for Substantial Rehabilitation of the Facility - \$350,000
3. State of Minnesota JOBZ tax abatement benefit, estimated - \$2,167,850
4. City of Duluth Tax Abatement, estimated - \$161,000
5. St. Louis County Tax abatement, estimated - \$320,000
6. State of Minnesota, Minnesota Investment Fund Forgivable Loan - \$500,000
(\$250,000 of the Forgivable Loan will be supported by short-term loan guarantees of \$50,000 each to be provided by DEDA, the Duluth Airport Authority, the Northland Foundation, Minnesota Power, and St. Louis County)
7. State of Minnesota, Minnesota Investment Fund Loan - \$500,000
8. Duluth 1200 Fund Loan - \$500,000
9. Arrowhead Regional Development Commission Loan - \$250,000
10. Northland Foundation Loan - \$450,000
11. Minnesota Community Capital Fund Loan - \$1,500,000
12. State of Minnesota, Minnesota Job Skills Partnership - \$400,000

Exhibit E

	Leashold Improvements
1	New UPS
2	Badge access door locks
3	Operating Security camera system
4	Certify existing cabling (Cat 5 ,6 and fiber)
5	New wireless access points
6	Install phone system
7	Re-key all doors
8	Gate at entrance and landscape at entry
9	Signage for building, front and large signage facing airport side
10	Test and activate vertical parts storage system

**PHASE II
ENVIRONMENTAL SITE
ASSESSMENT**

**Duluth Maintenance Base
4600 Stebner Road
Duluth, MN**

Prepared For:

**Mr. Thomas D. Cotruvo
Duluth Economic Development Authority
402 City Hall
Duluth, MN 55802**

Prepared By:

**Environmental Troubleshooters, Inc.
3825 Grand Avenue
Duluth, MN 55807**

ET# 07-0518

February 2008

TABLE OF CONTENTS

- 1.0 Introduction**
 - 1.1 Purpose
 - 1.2 Limitations and Exceptions of Assessment
- 2.0 Building Assessment Report**
- 3.0 Phase II Activities**
 - 3.1 Oil/water Separators and Fuel Transfer Pump
 - 3.2 Welding and Plating Areas
 - 3.3 Office Mold
- 5.0 Conclusions**
- 6.0 Recommendations**

Tables

- | | |
|---------|----------------------------------|
| Table 1 | Wipe Sampling Analytical Results |
|---------|----------------------------------|

Figures

- | | |
|----------|-------------------|
| Figure 1 | Site Location Map |
| Figure 2 | Site Plan View |

List of Appendixes

- | | |
|------------|---|
| Appendix A | Soil Boring Logs and MDH Well and Boring Sealing Record |
| Appendix B | Laboratory Analytical Reports |
| Appendix C | ET Standard Methods and Procedures |

1.0 INTRODUCTION

Environmental Troubleshooters, Inc. (ET) has completed a Phase II Environmental Site Assessment (ESA) for the Duluth Economic Development Authority (DEDA) at the Duluth Maintenance Base located at 4600 Stebner Road in Duluth, Minnesota, hereafter referred to as the "subject site" (see Figure 1). The building formerly housed the Northwest Airlines (NWA) - Airbus Maintenance Facility.

1.1 Purpose

The purpose in conducting the Phase II ESA was to evaluate operating areas identified during a Building Assessment (conducted by ET in June of 2007) as they relate to past NWA operations and the liability for future lessees. The operating areas evaluated during this assessment included the following:

- **Oil/water Separators:** Conducting soil borings adjacent to each of the separators to determine whether petroleum products captured by the units may have been released to the soil or groundwater.
- **Fuel Transfer Pump:** Conducting a soil boring adjacent to the fuel transfer pump to determine if petroleum products were released to the soil or groundwater.
- **Plating Area:** Collecting wipe samples in the plating area to confirm that heavy metals have been adequately removed.
- **Welding Area:** Collecting wipe samples in the welding area to confirm that heavy metals have been adequately removed.
- **Mold:** Collecting mold samples in one (1) of the three (3) offices documented to have past water leak(s) (i.e. ceiling tiles) to determine if there is a presence of mold.

1.2 Limitations and Exceptions of Assessment

This report is intended for the sole use of *Duluth Economic Development Authority (DEDA)*, its assigns and *ET* for its intended purpose only. The report may be unsuitable for other uses, and reliance on its contents by anyone other than the organizations stated above is not allowed without the express written consent of the parties listed. Should any of the parties above consent to reliance on the ESA by a third party, the reliance will be limited to this transaction and only for a limited period of time. ET accepts no responsibility for application or interpretation of the results by anyone other than those listed above.

The Phase II ESA procedure and the report have been developed with consideration of the American Society of Testing Materials (ASTM) Standard Guide for Environmental Site Assessments: Phase II Environmental Site Assessment Process (Designation: E 1903-97) and applying various federal, state, and local regulations. However, there are no specific regulations

that govern the performance of the assessment process. Therefore, ET can make no representation that this ESA will meet the requirements of any such law or regulation.

2.0 BUILDING ASSESSMENT REPORT

ET conducted a Building Assessment for DEDA at the Duluth Maintenance Base, formerly known as the NWA - Airbus Maintenance Facility. The purpose of this assessment was to evaluate the condition of the facility as it relates to past NWA operations and the liability for future lessees.

The Building Assessment was based on a limited electronic records review, a visual survey of the subject site, and a records review at the NWA facility in Minneapolis, Minnesota and multiple client meetings and contacts.

ET determined that, overall, the facility appeared to have been well maintained as noted by the cleanliness of the operating areas and detailed facility record keeping. Review of US Environmental Protection Agency (USEPA) and Minnesota Pollution Control Agency (MPCA) electronic records did not reveal release incidents or conditions at the subject site, which appear to represent significant risk of impact to the subject site.

During the site walk and interview process, select operating areas were identified as potentially requiring additional investigation. With the exception of the items summarized below, ET did not identify any potentially significant environmental issues at the subject site.

- **Oil/water Separators:** Veit and Safety-Kleen, as necessary, pumped the steel oil/water separators installed in 1995. Unlike the aboveground chemical storage tanks at the site, the separators are constructed below ground and are not actively monitored for spills or releases. Based on this information, ET recommended drilling soil borings adjacent to each of the separators to determine whether petroleum products captured by the units might have been released to the soil or groundwater.
- **Plating Area:** Due to the nature of the chemicals handled and processes performed, ET recommended conducting limited wipe sampling in the area to confirm heavy metals have been adequately removed.
- **Welding Area:** Due to the welding process, ET recommended conducting limited wipe samples in the area to confirm heavy metals have been adequately removed.
- **Mold:** Three (3) offices were documented to have past water leak(s) (i.e. ceiling tiles). ET recommended that samples be collected to determine if there is a presence of mold.

3.0 PHASE II ESA ACTIVITIES

3.1 Oil/water Separators and Fuel Transfer Pump

Veit and Safety-Kleen, as necessary, pumped the steel oil/water separators installed on the west and southeast areas of the building in 1995. Unlike the aboveground chemical storage tanks at the site, the separators are constructed below ground and are not actively monitored for spills or releases. Based on this information, ET recommended drilling soil borings adjacent to each of the separators to determine whether petroleum products captured by the units might have been released to the soil or groundwater. The laboratory reports are presented in Appendix A.

Soil Sampling

Two soil borings were conducted on the north and south end of the oil water separator (OWS) located on the west side of the facility (see Figure 2). Soil samples were screened in the field for the presence of organic vapors in two (2) foot intervals. The field screening was conducted with a photoionization detector (PID). The soil vapor reading from soil borings W-OWS-N and W-OWS-S ranged from 0.3 to 0.6 parts per million (ppm). Soil samples were collected from borings W-OWS-N and W-OWS-S at ten (10) and nine (9) feet below ground surface (bgs), respectively. Each soil sample was submitted to the laboratory for diesel range organics (DRO) and volatile organic compounds (VOCs) analysis. Analytical results of the soil samples indicated a DRO concentration of 1.8 milligrams per kilogram (mg/kg) in W-OWS-S. No other compounds were detected above the laboratory detection limits.

Two soil borings were conducted on the east and west end of the OWS located south of the east side of the building (see Figure 2). The positive soil vapor readings from soil borings E-OWS-1 and E-OWS-2 ranged from 0.2 to 0.6 ppm. Soil samples were collected from borings E-OWS-1 and E-OWS-2 at ten (10) feet bgs. Each soil sample was submitted to the laboratory for DRO and VOCs analysis. Analytical results of the soil samples indicated DRO concentrations of 4.4 mg/kg (E-OWS-1) and 4.5 mg/kg (E-OWS-2). No other compounds were detected above the laboratory detection limits.

One soil boring (FU-1) was conducted immediately adjacent to the remote fuel pump located at the southeastern corner of the building (see Figure 2). The soil vapor readings from soil boring FU-1 ranged from 0.2 to 0.5 ppm. The soil sample collected from boring FU-1 at eight (8) feet bgs was submitted to the laboratory for gasoline range organics (GRO) and VOCs analysis. Analytical results of the soil sample indicated a GRO concentration of 5.7 mg/kg, however, the laboratory report states that approximately 4.5 mg/kg of the GRO value is due to the addition of 8260 surrogate standards. No other compounds were detected above the laboratory detection limits.

Groundwater Sampling

Groundwater samples were collected from each of the OWS locations to evaluate potential groundwater impacts. Each of the temporary wells was constructed out of one (1) inch PVC with a screen intervals ranging from six (6) to sixteen (16) feet bgs. A bailer was used to collect ground water from the temporary well for analysis. One groundwater sample was collected from boring W-OWS-S and one groundwater sample was collected from E-OWS-1 and was submitted to the laboratory for DRO and VOCs analysis.

Analytical results of the groundwater sample collected from boring W-OWS-S did not indicate compounds above the laboratory detection limits, except acetone at 6.4 micrograms per liter ($\mu\text{g/l}$). Acetone is commonly known as a laboratory contaminant.

3.2 Welding and Plating Areas

Wipe Sampling in Welding Area

On December 28, 2007 ET collected three (3) wipe samples (WW-1, WW-2 and WW-3) from random floor and wall areas within the welding area and submitted the samples to the laboratory for Resources Conservation Recovery Act (RCRA) heavy metals (Arsenic, Barium, Cadmium, Chromium, Lead, Mercury, Selenium, Silver) to determine if the removal/cleaning conducted by NWA was sufficient when the plant shutdown. The sampling method consisted of wiping a one (1) foot square area where a potential existed for heavy metal contamination. The wipe samples were sent under chain of custody to Pace Analytical, Minnesota Department of Health (MDH) certified laboratory) for RCRA metal analysis.

Analytical results of the wipe samples collected indicated positive detections for all eight (8) heavy metals, except WW-3 that was below detection limit for mercury (Table 1).

After reviewing the Occupational Safety and Health Act (OSHA) Technical Manual Sampling for Surface Contamination and the MDH standard for lead, ET has concluded the following:

- ET was only able to find a published wipe standard for lead. This standard was published by the MDH and is 40 $\mu\text{g}/\text{ft}^2$
- The 40 $\mu\text{g}/\text{ft}^2$ lead result in sample WW-3 is equal to the MDH lead wipe standard.

Wipe Sampling in Plating Lines Area

On December 28, 2007 ET collected three (3) wipe samples (WP-1, WP-2 and WP-3) from random floor and wall areas within the plating area and submitted the samples to the laboratory for cyanide analysis to determine if the removal/cleaning conducted by NWA was sufficient when the plant shutdown. The sampling method consisted of wiping a one (1) foot square area where a potential existed for cyanide contamination. The wipe samples were sent under chain of custody to Pace Analytical, Minnesota Department of Health (MDH) certified laboratory) for cyanide metal analysis.

Analytical results of the wipe samples collected indicated cyanide concentrations ranging from 3.2 to 8.6 micrograms per wipe ($\mu\text{g}/\text{wipe}$).

3.3 Office Mold

During the site walk-through on June 4, 2007, ET observed water staining on the ceiling in Room 180. NWA personnel informed ET that a water leak had occurred and the subsequent water stain resulted. While no mold growth was observed in relation to the water staining, ET

recommended that a mold air sample be collected to insure elevated mold spores were not present. On December 31, 2007, ET collected an indoor air mold sample in Room 180 and a background exterior air sample for comparison. The collected samples were submitted under chain-of-custody to a certified laboratory for analysis.

ET personnel collected two (2) air samples: one (1) air sample was from Room 180 and one (1) air sample was from the outside air as a background. Air samples were collected by drawing air through an air-o-cell cassette where particles, such as mold spores, pollen, insect parts, skin cell fragments, fibers, etc., become impacted on a sampling substrate. The collected samples are then submitted under chain-of-custody documentation to a certified laboratory for analysis. The air was pulled through the cassette using a high-flow pump field calibrated to a volumetric flow rate of fifteen (15) liters per minute (lpm). The background and indoor air samples were collected over a duration of five (5) minutes, for a total volume of seventy-five (75) liters.

Analytical results presented in the table below indicated that there are mold spores present in low concentrations in Room 180 and in the exterior background sample (Attachment 1 Laboratory Results). The results also indicate that no toxic mold spores were present. The results indicate that the mold concentrations and species are what would be typically observed in commercial buildings and homes with health air quality.

Spore Types	Room 180 Sample 12746833	Outside Background Sample 12746888
Agrocybe/Coprinus	42	--
Ascospores	42	--
Aspergillus/Penicillium	--	84
Basidiospores	84	--
Cladosporium	168	--
Epicoccum	--	13
Unidentified Spores	42	--

-- = No spores present

A brief description of the nature of the identified spores and the potential threat posed by each type is summarized below.

- *Agrocybe/Coprinus* is a form of mushroom commonly found outdoors and is generally not considered a threat to human health.
- *Ascospores* are a large category of spores (produced in a sac-like structure) that are found everywhere in nature and include more than 3000 genera. This mold is commonly found in nature and wet building materials. These mold genera are not very well studied, but some are known as allergens.
- *Aspergillus and Penicillium* have similar attributes and are indistinguishable on non-cultured samples. *Aspergillus/Penicillium* is generally considered a nuisance mold and

should pose limited health affects unless a person is allergic to the mold or it is found in extremely high concentrations.

- *Basidiospores* develop from over wintered telia of on fallen willow leaves germinate to produce yellowish basidia and basidiospores in spring. This mold is commonly found in forests and gardens. This mold is designated as a Type I allergen and can cause Type III Hypersensitivity Pneumonitis.
- *Cladosporium* is the most commonly identified outdoor fungus. This mold is a common allergen. It is usually found in higher concentrations outdoors than indoors, and concentrations decrease significantly during the winter months. Indoor growth is very widespread, occurring on textiles, wood, moist windowsills, and most commonly associated with refrigerated foods. *Cladosporium* is not toxic and should be considered a nuisance mold.
- *Epicoccum* is widely distributed mold that is commonly isolated from air, soil and foodstuff. Spores are also found in some animals and textiles. It is the common causative agent of leaf spots of various plants. There are no documented cases of *Epicoccum* infection in humans or animals and has not been documented as a pathogen.

5.0 CONCLUSIONS

Based on the information collected during the Phase II ESA, ET concluded the following:

- There does not appear to be any significant soil or groundwater impacts in the OWS or Fuel transfer pump areas. Although concentrations of DRO were detected in the soil samples ranging from 1.8 to 4.5 mg/kg, the field organic vapor readings ranged from only 0.2 to 0.6 ppm. In addition, the laboratory reports stated for each soil DRO result that "late eluting hump along with diesel range peaks were present in the chromatogram". This is a common issue with DRO soil results when naturally occurring organic interferences (e.g. peat) are present.
- Cleaning performed by NWA and/or their contractor did not remove the extent of heavy metal residue.
- Based on the laboratory results, ET concludes that low levels mold spores are present in Room 180. The mold spore concentrations are consistent with the concentration observed in the background air sample. The mold concentrations and species are what are commonly observed in typical commercial building and homes with health air quality. Based on the mold concentrations and mold species observed, ET does not recommend any further action.

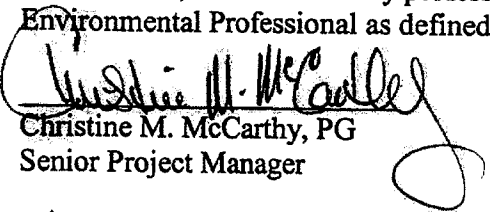
6.0 RECOMMENDATIONS

ET does not recommend any additional assessments of the areas investigated during the Phase II ESA, the following is recommended to limit any potential exposure to metals identified in the wipe samples collected in the welding and plating areas:

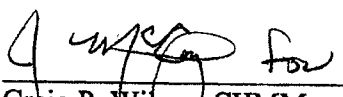
- Reclean the area to insure the heavy metal residue is removed.
- If recleaning is not feasible, the area(s) may be encapsulated to insure heavy metal contamination is not transported to other areas or exposes workers.
- Resample the area(s) to insure the cleaning/encapsulating is sufficient.
- Review more regulations to determine if other standards exist for the other eight (8) heavy metals.

This report has been prepared in accordance with generally accepted engineering and hydrogeologic principles and practices of this time and location. Interpretations and recommendations in this report are based on available data, and additional data may result in revised interpretations and recommendations. This report is intended for use by the client, its designated agents and ET for its intended purpose only at the time of preparation. The report may be unsuitable for other uses, and reliance on its contents by anyone other than the client is done at the sole risk of the user. ET accepts no responsibility for application or interpretation of the results by anyone other than the client. Environmental Troubleshooters, Inc prepared this Phase II report.

I declare that, to the best of my professional knowledge and belief, I meet the definition of Environmental Professional as defined in 312.10 of 40 CFR 312.


Christine M. McCarthy, PG
Senior Project Manager

2/14/08
Date


Craig P. Wilson, CHMM
Industrial Hygienist

2/14/08
Date

Exhibit G

Business Subsidy Recovery Schedule

Pursuant to Article V, E., the following calculation may be required in the event that it is determined that DEDA is entitled to recover the net Subsidy Amount received by Lessee:

Monthly Market Value of the Lease:

Square Footage Leased	X		152,300
Market Value - Monthly Lease Rate	=	\$	0.1667
Market Value of the Lease		\$	25,383.33

Number of Months Where Lessee Has Not Demonstrated Payment of All Operating and Maintenance Costs of the Building and Leased Premises			<u>6</u>
--	--	--	----------

Net Subsidy Amount - Lease Subsidy	\$	152,300.00
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Minimum Value of Initial Improvements:	\$500,000.00
Documented Value of Initial Improvements:	<u>450,000.00</u>

Net Subsidy Amount - Failure to Perform Initial Improvements	<u>\$50,000.00</u>
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Net Subsidy Recovery Amount	<u>\$ 202,300.00</u>
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Note: This calculation assumes 6 months of utility and maintenance non-payment, plus a \$50,000 shortfall Initial Improvement Spending.